

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KENNETH ALFRED LINVILLE, JR.,

Petitioner,

Case No. C22-5241-LK-MLP

V.

ROBERT JACKSON,

## Respondent.

ORDER GRANTING PETITIONER  
LEAVE TO FILE A RESPONSE TO  
RESPONDENT'S ANSWER

Petitioner Kenneth Linville is a state prisoner who is currently incarcerated at the

Washington State Penitentiary in Walla Walla, Washington. He has filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 seeking relief from a 2015 judgment and sentence of the Thurston County Superior Court. (*See* dkt. # 4.) Petitioner identified in his petition a single ground for relief in which he asserts that his trial counsel rendered ineffective assistance by failing to object to the improper joinder of charges. (*Id.* at 5.) Respondent filed an answer to the petition in which he argued that Petitioner failed to properly exhaust his sole ground for relief and that the claim is now procedurally barred under state law. (*See* dkt. # 9.) Petitioner did not file a response to Respondent’s answer, as he was permitted to do. Petitioner instead filed a

ORDER GRANTING PETITIONER  
LEAVE TO FILE A RESPONSE TO  
RESPONDENT'S ANSWER - 1

1 motion to stay and abey the petition so that he could seek review in the state courts of a second  
2 ineffective assistance of counsel claim. (Dkt. # 13.) Respondent opposed that motion. (Dkt.  
3 # 14.)

4 On October 5, 2022, the undersigned issued a Report and Recommendation  
5 recommending that Petitioner's motion to stay and abey be denied and that he be granted an  
6 opportunity to file a response to Respondent's answer. (Dkt. # 15.) On November 22, 2022, the  
7 Honorable Lauren King, United States District Judge, issued an Order adopting the Report and  
8 Recommendation. (Dkt. # 16.) Judge King directed therein that the undersigned set a new  
9 deadline for Petitioner to file a response to Respondent's answer and re-note the answer on the  
10 Court's calendar for consideration. In accordance with Judge King's directive, this Court hereby  
11 ORDERS as follows:

12 (1) Petitioner shall file a response to Respondent's answer, should he elect to do so,  
13 not later than ***Monday, December 26, 2022***.

14 (2) Respondent's answer (dkt. # 9) is RE-NOTED on the Court's calendar for  
15 consideration on ***Friday, December 30, 2022***. Respondent shall file any reply brief by that date.

16 (3) The Clerk is directed to send copies of this Order to Petitioner, to counsel for  
17 Respondent, and to the Honorable Lauren King.

18 DATED this 23rd day of November, 2022.

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23 MICHELLE L. PETERSON  
United States Magistrate Judge

ORDER GRANTING PETITIONER  
LEAVE TO FILE A RESPONSE TO  
RESPONDENT'S ANSWER - 2